

1 BEFORE NANCY KEENAN, SUPERINTENDENT OF PUBLIC INSTRUCTION  
2 STATE OF MONTANA

3 \* \* \* \* \*

4 WARREN SMALL, )  
5 Appellant, )  
6 vs. ) OSPI 227-93  
7 SCHOOL DISTRICT NO. 87-J/L ) DECISION AND ORDER  
8 BOARD OF TRUSTEES, )  
9 Respondents. )

10 \* \* \* \* \*

11 **PROCEDURAL HISTORY AND FACTS OF THIS APPEAL**

12 Warren Small is appealing the July 26, 1993, decision of  
13 Hill County Superintendent of Schools, Shirley Isbell. On June  
14 28, 1993, the Rocky Boy School District 87-J/L Trustees decided  
15 not to hire him as the boy's head basketball coach. Mr. Small  
16 appealed that decision to the County Superintendent who dismissed  
17 the appeal based on lack of jurisdiction.

18 **STANDARD OF REVIEW**

19 This is a review of a conclusion of law that an appeal  
20 should be dismissed. Conclusions of law are reviewed to  
21 determine if the interpretation of the law is correct. Steer,  
22 Inc. v. Dept. of Revenue, 245 Mont. 470, at 474, 803 P.2d at 603  
(1990).

23 **DECISION AND ORDER**

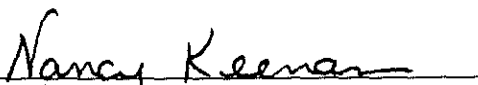
24 The County Superintendent correctly concluded that Mr.  
25 Small's appeal should be dismissed. The order is AFFIRMED.

MEMORANDUM OPINION

District 87-J/L Trustees' decision not to hire Mr. Small as a basketball coach is not a contested case or school controversy that county superintendents have jurisdiction to hear. There is no statutory or constitutional right to an administrative hearing in this case.

In Irving v. Board of Education School District No. 1, Valley County, OSPI 162-88, decided May 1, 1989, 8 Ed Law 57 (OSPI 1989), this Superintendent held that county superintendents do not have jurisdiction to review trustees' decisions about who to interview and hire. The Montana Supreme Court upheld that ruling stating, "[Petitioner] did not present a claim upon which relief could be granted and the appeal of her administrative claim was properly dismissed." Irving v. School District No. 1-1A, Valley County, 813 P.2d 417, 248 Mont. 460, 10 Ed Law 177 (1991).

DATED this 22nd day of November, 1993.

  
NANCY KEENAN

CERTIFICATE OF SERVICE


THIS IS TO CERTIFY that on this 22nd day of November, 1993,  
a true and exact copy of the foregoing Decision and Order was  
mailed, postage prepaid, to the following:

Warren Small  
P.O. Box 1015  
Box Elder, MT 59521

Board of Trustees  
School District No. 87-J/L  
Rocky Boy Route Box 620  
Box Elder, MT 59521

Shirley Isbell  
Hill County Supt.  
315 4th Street  
Havre, MT 59501

Catherine M. Swift  
ERDMANN LAW FIRM  
P.O. Box 5418  
Helena, MT 59604

  
\_\_\_\_\_  
Scott Campbell  
Paralegal Assistant  
Office of Public Instruction